

TITLE 326 AIR POLLUTION CONTROL DIVISION**Final Rule**

LSA Document #16-209(F)

DIGEST

Adds [326 IAC 24-5](#), [326 IAC 24-6](#), and [326 IAC 24-7](#) and amends [326 IAC 24-3-1](#), [326 IAC 24-3-4](#), and [326 IAC 26-1-5](#) concerning the federal Cross-State Air Pollution Rule (CSAPR) and the CSAPR Update Rule for the 2008 Ozone National Ambient Air Quality Standards. Repeals [326 IAC 24-1](#), [326 IAC 24-2](#), [326 IAC 24-3-3](#), [326 IAC 24-3-5](#), [326 IAC 24-3-6](#), [326 IAC 24-3-7](#), [326 IAC 24-3-8](#), [326 IAC 24-3-9](#), [326 IAC 24-3-10](#), and [326 IAC 24-3-12](#). Effective 30 days after filing with the Publisher.

HISTORY

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[326 IAC 24-1](#); [326 IAC 24-2](#); [326 IAC 24-3-1](#); [326 IAC 24-3-3](#); [326 IAC 24-3-4](#); [326 IAC 24-3-5](#); [326 IAC 24-3-6](#); [326 IAC 24-3-7](#); [326 IAC 24-3-8](#); [326 IAC 24-3-9](#); [326 IAC 24-3-10](#); [326 IAC 24-3-12](#); [326 IAC 24-5](#); [326 IAC 24-6](#); [326 IAC 24-7](#); [326 IAC 26-1-5](#)

SECTION 1. [326 IAC 24-3-1](#) IS AMENDED TO READ AS FOLLOWS:

ARTICLE 24. CROSS-STATE AIR POLLUTION RULE (CSAPR) PROGRAMS**[326 IAC 24-3-1](#) Applicability**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) ~~This rule establishes a NO_x ozone season emissions budget and NO_x trading program for fossil fuel-fired generating units and large affected units as described in this rule. The following units Any large affected unit as defined in section 2 of this rule, shall be a CAIR NO_x ozone season unit, and any source that includes one (1) or more such units shall be a CAIR NO_x ozone season source, and shall be subject to the requirements of this rule. except as provided in subsection (b):~~

(1) ~~Any stationary, fossil fuel-fired boiler or stationary, fossil fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty five (25) megawatt electrical producing electricity for sale.~~

(2) ~~Any large affected unit as defined in section 2 of this rule.~~

(3) ~~If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR NO_x ozone season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR NO_x ozone season unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.~~

(b) ~~Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR NO_x ozone season units under subsection (a)(1) or (a)(3) as follows:~~

(1) ~~Any unit that is a CAIR NO_x ozone season unit under subsection (a)(1) or (a)(3):~~

(A) ~~qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and~~

(B) ~~not serving at any time, since the later of November 15, 1990, or the start up of the unit's combustion~~

chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x ozone season unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is a CAIR NO_x ozone season unit under subsection (a)(1) or (a)(3) commencing operation before January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(3) Any unit that is a CAIR NO_x ozone season unit under subsection (a)(1) or (a)(3) commencing operation on or after January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x ozone season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Division; [326 IAC 24-3-1](#); filed Jan 26, 2007, 10:25 a.m.: [20070221-IR-326050117FRA](#); filed May 12, 2009, 11:16 a.m.: [20090610-IR-326080005FRA](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

SECTION 2. [326 IAC 24-3-4](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 24-3-4](#) Standard requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) The owners and operators, and CAIR designated representative of each CAIR NO_x ozone season source shall comply with the following permit requirements:

(1) The CAIR designated representative of each CAIR NO_x ozone season source required to have a federally enforceable permit and each CAIR NO_x ozone season unit required to have a federally enforceable permit at the source shall submit the following to the department:

(A) A complete CAIR permit application under section 7(c) of this rule in accordance with the deadlines specified in section 7(b)(1) of this rule.

(B) Any supplemental information that the department determines is necessary in order to review a CAIR permit application in a timely manner and issue or deny a CAIR permit.

(2) The owners and operators of each CAIR NO_x ozone season source required to have a federally enforceable permit and each CAIR NO_x ozone season unit required to have a federally enforceable permit at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 12 of this rule, the owners and operators of a CAIR NO_x ozone season source that is not otherwise required to have a federally enforceable permit and each CAIR NO_x ozone season unit that is not otherwise required to have a federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR NO_x ozone season source and such CAIR NO_x ozone season unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR NO_x ozone season source and CAIR NO_x ozone season unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of section 11 of this rule.

(2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each CAIR NO_x ozone season source with the CAIR NO_x ozone season emissions limitation under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR NO_x ozone season source and CAIR NO_x ozone season unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source shall hold, in the source's compliance account, CAIR NO_x ozone season allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO_x ozone season units at the source, as determined in accordance with section 11 of this rule.

(2) A CAIR NO_x ozone season unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of May 1, 2009 or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1), 11(c)(2), 11(c)(3), or 11(c)(7) of this rule and for each control period thereafter.

(3) A CAIR NO_x ozone season allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR NO_x ozone season allowance was allocated.

(4) CAIR NO_x ozone season allowances shall be held in, deducted from, or transferred into or among CAIR NO_x ozone season allowance tracking system accounts in accordance with sections 9, 10, and 12 of this rule.

(5) A CAIR NO_x ozone season allowance is a limited authorization to emit one (1) ton of nitrogen oxides in accordance with the CAIR NO_x ozone season trading program. No provision of the CAIR NO_x ozone season trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the state of Indiana or the United States to terminate or limit such authorization.

(6) A CAIR NO_x ozone season allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO_x ozone season allowance to or from a CAIR NO_x ozone season source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) If a CAIR NO_x ozone season source emits nitrogen oxides during any control period in excess of the CAIR NO_x ozone season emissions limitation, then:

(1) the owners and operators of the source and each CAIR NO_x ozone season unit at the source shall surrender the CAIR NO_x ozone season allowances required for deduction under section 9(j)(4) of this rule and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law; and

(2) each ton of such excess emissions and each day of such control period shall constitute a separate violation of this subpart, the Clean Air Act, and applicable state law.

(e) Owners and operators of each CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the CAIR NO_x ozone season source and each CAIR NO_x ozone season unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department or U.S. EPA:

(A) The certificate of representation under section 6(h) of this rule for the CAIR designated representative for the source and each CAIR NO_x ozone season unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the CAIR designated representative.

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR-NO_x ozone season trading program.

(D) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR-NO_x ozone season trading program or to demonstrate compliance with the requirements of the CAIR-NO_x ozone season trading program.

(2) The CAIR designated representative of a CAIR-NO_x ozone season source and each CAIR-NO_x ozone season unit at the source shall submit the reports required under the CAIR-NO_x ozone season trading program, including those under section 11 of this rule.

(f) The owners and operators of each CAIR-NO_x source and each CAIR-NO_x unit shall be liable as follows:

(1) Each CAIR-NO_x ozone season source and each CAIR-NO_x ozone season unit shall meet the requirements of the CAIR-NO_x ozone season trading program.

(2) Any provision of the CAIR-NO_x ozone season trading program that applies to a CAIR-NO_x ozone season source or the CAIR designated representative of a CAIR-NO_x ozone season source shall also apply to the owners and operators of such source and of the CAIR-NO_x ozone season units at the source.

(3) Any provision of the CAIR-NO_x ozone season trading program that applies to a CAIR-NO_x ozone season unit or the CAIR designated representative of a CAIR-NO_x ozone season unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR-NO_x ozone season trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR-NO_x ozone season source or CAIR-NO_x ozone season unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(Air Pollution Control Division; [326 IAC 24-3-4](#); filed Jan 26, 2007, 10:25 a.m.: [20070221-IR-326050117FRA](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

SECTION 3. [326 IAC 24-5](#) IS ADDED TO READ AS FOLLOWS:

Rule 5. Nitrogen Oxides (NO_x) Annual Trading Program

[326 IAC 24-5-1](#) Applicability and incorporation by reference

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to CSAPR NO_x annual units and CSAPR NO_x annual sources as specified in 40 CFR 97.404*, as amended by 81 FR 74605, that are located in Indiana.

(b) The definitions in [IC 13-11-2](#), [326 IAC 1](#), and 40 CFR 97.402*, as amended by 84 FR 74604, apply throughout this rule. For purposes of this rule, the definition for a term provided in 40 CFR 97.402 controls in any conflict between [326 IAC 1](#) and 40 CFR 97.402.

(c) The following federal provisions are incorporated by reference:

(1) The CSAPR NO_x Annual Trading Program at:

(A) 40 CFR 97.402* through 40 CFR 97.408*, as amended by 81 FR 74604;

(B) 40 CFR 97.411(c)(1)* through 40 CFR 97.411(c)(4)*, as amended by 81 FR 74606;

(C) 40 CFR 97.411(c)(5)(i)* and 40 CFR 97.411(c)(5)(ii)*, as amended by 81 FR 74606;

(D) 40 CFR 97.413* through 40 CFR 97.420*, as amended by 81 FR 74606;

(E) 40 CFR 97.421(e)* through 40 CFR 97.421(g)*, as amended by 81 FR 74606;

(F) 40 CFR 97.421(i)*, as amended by 81 FR 74606;

(G) 40 CFR 97.421(k)* and 40 CFR 97.421(l)*, as amended by 81 FR 74606; and

(H) 40 CFR 97.422* through 40 CFR 97.435*, as amended by 81 FR 74607.

(2) The Indiana NO_x annual variability limit at 40 CFR 97.410(b)(4)*, as amended by 81 FR 74606.

(d) The following are substitutions to 40 CFR as incorporated into this rule:

(1) As it appears in 40 CFR 97.402 and 40 CFR 97.406(c)(2)(iii), substitute the following:

(A) Delete "§ 97.410(a)" and insert "40 CFR 97.410(a)(4)(iv)".

(B) Delete "§ 97.410(b)" and insert "40 CFR 97.410(b)(4)".

(2) As it appears in 40 CFR 97.402, delete "§ § 97.411 and 97.412" and insert "[326 IAC 24-5-5](#), [326 IAC 24-5-6](#), and [326 IAC 24-5-7](#)".

(3) As it appears in 40 CFR 97.406(b)(2), delete "§ 97.411(a)(2) and (b) and 97.412" and insert "[326 IAC 24-5-5](#), [326 IAC 24-5-6](#), and [326 IAC 24-5-7](#)".

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-1](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-5-2](#) CSAPR NO_x annual trading budget

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The total Indiana CSAPR NO_x annual trading budget, in 40 CFR 97.410(a)(4)(iv)*, as amended by 81 FR 74606, is available for each control period starting in 2021 and thereafter. This does not include any tons in a variability limit.

(b) For each control period in 2021 and thereafter, a new unit set-aside is established for Indiana equal to the allowances at 40 CFR 97.410(a)(4)(v)*, as amended by 81 FR 74606 and any additional allowances at 40 CFR 97.411(c)(5)*, as amended by 81 FR 74606.

(c) The existing unit budget is the difference between the total trading budget at 40 CFR 97.410(a)(4)(iv)*, as amended by 81 FR 74606, and the new unit set-aside at 40 CFR 97.410(a)(4)(v)*, as amended by 81 FR 74606.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-2](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-5-3](#) CSAPR NO_x annual allocation timing

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. The department shall allocate CSAPR NO_x annual allowances according to the following schedule:

(1) By June 1, 2018, the department shall submit to the United States Environmental Protection Agency (U.S. EPA) the existing unit allowance allocations, in accordance with section 5 of this rule, for control periods in 2021 and 2022.

(2) By June 1, 2019, and June 1 every two (2) years thereafter, the department shall submit to U.S. EPA the existing unit allowance allocations in accordance with section 5 of this rule, for control periods four (4) and five (5) years after the applicable deadline for submission under this subdivision.

(3) By July 1, 2021, and July 1 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations, in accordance with section 6 of this rule, for the control period in the year of the applicable deadline for submission under this subdivision.

(4) By February 6, 2022, and February 6 of each year thereafter, the department shall submit to U.S.

EPA the new unit set-aside allowance allocations in accordance with section 7 of this rule, for the control period in the previous year of the applicable deadline for submission under this subdivision.

(Air Pollution Control Division; [326 IAC 24-5-3](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-5-4](#) Baseline heat input and historic emissions

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) For purposes of this rule, an existing unit is any unit with a baseline heat input, in million British thermal units (MMBtu). Baseline heat input is determined as follows:

(1) If a unit commenced commercial operation prior to January 1, 2016, then the following applies:

(A) For an allowance allocation for control periods in 2021 and 2022 the baseline heat input is the average of the three (3) highest control period heat inputs in 2008 through 2015.

(B) For an allowance allocation for control periods in 2023 and 2024 and every two (2) control periods thereafter, the baseline heat input is the average of the three (3) highest, non-zero control period heat inputs in the eight (8) years before the allocation is calculated.

(C) If a unit has only two (2) non-zero heat inputs during the eight (8) years before the allocation is calculated, the baseline heat input is the average of those two (2) non-zero control period heat inputs.

(D) If a unit has only one (1) non-zero heat input during the eight (8) years before the allocation is calculated, the baseline heat input is that one (1) non-zero control period heat input.

(2) If a unit commenced commercial operation on or after January 1, 2016, and operates each control period during a period of three (3) or more consecutive calendar years, for an allowance allocation under section 3(2) of this rule, the baseline heat input is the average of the three (3) highest, non-zero control period heat input values for the years before the calculation of the allocation, not to exceed eight (8) control periods.

(b) For purposes of this rule, new units either:

(1) commenced operation on or after January 1, 2016, and do not have a baseline heat input; or

(2) did not receive allowances as determined under section 5(c) of this rule, and operated during the control period immediately preceding the year of allocation.

(c) The maximum historic emission cap is the maximum NO_x emissions, in tons, that occurred during any control period of the historic emissions period. The historic emissions period is an eight (8) year history for each unit ending with the most recent year of the eight (8) years used for the determination of the heat input under subsection (a).

(d) A unit's control period heat input and a unit's total tons of NO_x emissions during a control period under this section must be determined in accordance with 40 CFR 75*.

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-4](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-5-5](#) Existing unit allocations and adjustments

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) For each control period in 2021 and thereafter, the department shall allocate to all existing units that have a baseline heat input the total amount of allowances as listed in section 2(c) of this rule in accordance with this section.

(b) The initial allocation for an existing unit is the existing unit budget multiplied by the ratio of the baseline heat input of the unit to the total amount of baseline heat inputs of all CSAPR NO_x annual units, rounded to the nearest whole allowance.

(c) A unit receives no allowances if the unit does not operate during the control period in two (2) consecutive years as follows:

- (1) Allowances must not be allocated to the unit for the control period in the fifth year after the first year of not operating and in each year after the fifth year.
- (2) If the unit resumes operation, the department must allocate allowances to the unit in accordance with the standards for new unit allocations until the unit has a baseline heat input.

(d) The allocation to each unit is the lesser of the following, plus any reapportioned allowances:

- (1) Initial allocation under subsection (b).
- (2) A cap on emissions pursuant to a federally enforceable judicial consent decree.
- (3) Maximum historic emissions, as determined under section 4(c) of this rule.
- (4) No allowances if the unit does not operate as described in subsection (c).

(e) All allowances remaining after the application of subsections (b) and (c) are reapportioned as follows, until the entire existing unit budget is allocated, with each resulting allocation value rounded to the nearest whole allowance:

- (1) Remaining allowances are reapportioned to the remaining units whose initial allocation is not limited by subsection (d)(2) through (d)(4).
- (2) Allocations are apportioned on the same basis as under subsection (b).
- (3) These steps are repeated with each revised allocation distribution until the entire existing unit budget is allocated.

(f) By March 1 of each year existing unit allocations are made under this section, the department shall make the allowance allocations available for public review. The department may adjust each determination if appropriate or necessary to ensure that it is in accordance with this rule.

(Air Pollution Control Division; [326 IAC 24-5-5](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-5-6](#) New unit allocations

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) For each control period in 2021 and thereafter, the department shall allocate to all new units, a total amount of allowances in the new unit set-aside as listed in section 2(b) of this rule.

(b) The department must determine for each new unit an allocation of allowances for the later of the following control periods and for each subsequent control period:

- (1) The control period starting in 2021.
- (2) The first full control period after the unit commences commercial operation.
- (3) For a unit misallocated allowances under 40 CFR 97.411(c)*, as amended by 81 FR 74606, the first control period in which the unit operates in Indiana after operating in another jurisdiction and the unit must not already have been allocated one (1) or more allowances.
- (4) For a unit that received no allowances as described in section 5(c) of this rule that resumes operation, the first full control period after the unit resumes operation.

(c) The allocation to each unit for each control period must be an amount equal to the unit's total tons of NO_x emissions during the immediately preceding control period. The department may adjust the allocations as follows:

- (1) If the amount of allowances in the new unit set-aside for a control period is greater than or equal to the sum of the preceding control period emissions, then the department shall allocate the amount equal to the unit's total tons of NO_x emissions during the immediately preceding control period.
- (2) If the amount of allowances in the new unit set-aside for a control period is less than the sum of the preceding control period emissions, then the department shall allocate to each unit an amount equal

to the unit's tons of NO_x emissions during the immediately preceding control period for the unit, multiplied by the amount of allowances in the new unit set-aside for the control period, divided by the sum of the preceding control period emissions, rounded to the nearest whole allowance.

(d) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-6](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-5-7](#) Unallocated new unit set-aside allowances

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) Unallocated allowances remaining in the new unit set-aside after completion of the procedures of section 6 of this rule, for a control period, shall be allocated first to new units as follows:

(1) For each unit that commenced commercial operation during the period starting January 1 of the year before the year of the control period and ending November 30 of the year of the control period, the department shall determine the positive difference, if any, between the unit's emissions during the control period and the amount of allowances awarded for the unit for the control period.

(2) The department shall determine the sum of the positive differences determined under subdivision (1) and then proceed as follows:

(A) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is greater than or equal to the sum determined under this subdivision, then the department must allocate the amount of allowances determined for each unit under subdivision (1).

(B) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is less than the sum under this subdivision, then the department must allocate to each unit under the following formula, rounded to the nearest whole allowance:

$$\text{Unit allowance} = ((E-A) \times \text{RNUSA}) / \text{Sum}$$

Where: Unit allowance is the total allowances allocated to the unit.
E is the unit's emissions during the control period.
A is the amount of allowances awarded for the unit for the control period.
RNUSA is the remaining allowances in the new unit set-aside.
Sum is the total amount of allocations under this subdivision.

(b) After completion of the procedures under subsection (a) for a control period, if any unallocated allowances remain in the new unit set-aside for the control period, the department shall allocate to each existing unit that was allocated allowances under section 5 of this rule, an amount of allowances under the following formula:

$$\text{Unit allowance} = (\text{UA} \times \text{EUA}) / \text{EUB}$$

Where: Unit allowance is the total allowances allocated to the unit.
UA is the total amount of the remaining unallocated allowances in the new unit set-aside.
EUA is the unit's allocation under section 5 of this rule for the control period.
EUB is the existing unit budget, as listed in section 2(c) of this rule, for the control period, rounded to the nearest whole allowance.

(c) The department shall notify each CSAPR designated representative of the amount of allowances

allocated under this section.

(Air Pollution Control Division; [326 IAC 24-5-7](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

SECTION 4. [326 IAC 24-6](#) IS ADDED TO READ AS FOLLOWS:

Rule 6. Nitrogen Oxides (NO_x) Ozone Season Group 2 Trading Program

[326 IAC 24-6-1](#) Applicability and incorporation by reference

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to CSAPR NO_x Ozone Season Group 2 units and CSAPR NO_x Ozone Season Group 2 sources as specified in 40 CFR 97.804*, as added by 81 FR 74627, that are located in Indiana.

(b) The definitions in [IC 13-11-2](#), [326 IAC 1](#), and 40 CFR 97.802*, as added by 81 FR 74622, apply throughout this rule. For purposes of this rule, the definition for a term provided in 40 CFR 97.802 controls in any conflict between [326 IAC 1](#) and 40 CFR 97.802.

(c) The following federal provisions are incorporated by reference:

(1) The CSAPR NO_x Ozone Season Group 2 Trading Program at:

(A) 40 CFR 97.802* through 40 CFR 97.808*, as added by 81 FR 74622;

(B) 40 CFR 97.811(c)(1)* through 40 CFR 97.811(c)(4)*, as added by 81 FR 74633;

(C) 40 CFR 97.811(c)(5)(i)* and 40 CFR 97.811(c)(5)(ii)*, as added by 81 FR 74633;

(D) 40 CFR 97.813* through 40 CFR 97.820*, as added by 81 FR 74637;

(E) 40 CFR 97.821(d)* through 40 CFR 97.411(g)*, as added by 81 FR 74642;

(F) 40 CFR 97.821(i)*, as added by 81 FR 74642;

(G) 40 CFR 97.821(k)* and 40 CFR 97.821(l)*, as added by 81 FR 74643; and

(H) 40 CFR 97.822* through 40 CFR 97.835*, as added by 81 FR 74643.

(2) The Indiana NO_x ozone season group 2 variability limit at 40 CFR 97.810(b)(5)*, as added by 81 FR 74631.

(d) The following are substitutions to 40 CFR as incorporated into this rule:

(1) As it appears in 40 CFR 97.802 and 40 CFR 97.806(c)(2)(iii), substitute the following:

(A) Delete "§ 97.810(a)" and insert "40 CFR 97.810(a)(5)(i)".

(B) Delete "§ 97.810(b)" and insert "40 CFR 97.810(b)(5)".

(2) As it appears in 40 CFR 97.802, delete "§ § 97.811 and 97.812" and insert "[326 IAC 24-6-5](#), [326 IAC 24-6-6](#), and [326 IAC 24-6-7](#)".

(3) As it appears in 40 CFR 97.806(b)(2), delete "§ § 97.811(a)(2) and (b) 97.812" and insert "[326 IAC 24-6-5](#), [326 IAC 24-6-6](#), and [326 IAC 24-6-7](#)".

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-1](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-6-2](#) CSAPR NO_x ozone season group 2 trading budget

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The total Indiana CSAPR NO_x ozone season group 2 trading budget, in 40 CFR 97.810(a)(5)(i)*, as added by 81 FR 74631, is available for each control period starting in 2021 and thereafter. This does not include any tons in a variability limit.

(b) For each control period in 2021 and thereafter, a new unit set-aside is established for Indiana equal to the allowances at 40 CFR 97.810(a)(5)(ii)*, as added by 81 FR 74631, and any additional allowances at 40 CFR 97.811(c)(5)*, as added by 81 FR 74633.

(c) The existing unit budget is the difference between the total trading budget at 40 CFR 97.810(a)(5)(i)*, as added by 81 FR 74631, and the new unit set-aside at 40 CFR 97.810(a)(5)(ii)*, as added by 81 FR 74631.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-2](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-6-3](#) CSAPR NO_x ozone season group 2 allocation timing

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. The department shall allocate CSAPR NO_x ozone season group 2 allowances according to the following schedule:

- (1) By June 1, 2018, the department shall submit to U.S. EPA the existing unit allowance allocations, in accordance with section 5 of this rule, for control periods in 2021 and 2022.
- (2) By June 1, 2019, and June 1 every two (2) years thereafter, the department shall submit to U.S. EPA the existing unit allowance allocations in accordance with section 5 of this rule, for control periods four (4) and five (5) years after the applicable deadline for submission under this subdivision.
- (3) By July 1, 2021, and July 1 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations, in accordance with section 6 of this rule, for the control period in the year of the applicable deadline for submission under this subdivision.
- (4) By February 6, 2022, and February 6 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations in accordance with section 7 of this rule, for the control period in the previous year of the applicable deadline for submission under this subdivision.

(Air Pollution Control Division; [326 IAC 24-6-3](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-6-4](#) Baseline heat input and historic emissions

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) For purposes of this rule, an existing unit is any unit with a baseline heat input, in MMBtu. Baseline heat input is determined as follows:

- (1) If a unit commenced commercial operation prior to January 1, 2016, then the following applies:
 - (A) For an allowance allocation for control periods in 2021 and 2022 the baseline heat input is the average of the three (3) highest control period heat inputs in 2008 through 2015.
 - (B) For an allowance allocation for control periods in 2023 and 2024 and every two (2) control periods thereafter, the baseline heat input is the average of the three (3) highest, non-zero control period heat inputs in the eight (8) years before the allocation is calculated.
 - (C) If a unit has only two (2) non-zero heat inputs during the eight (8) years before the allocation is calculated, the baseline heat input is the average of those two (2) non-zero control period heat inputs.
 - (D) If a unit has only one (1) non-zero heat input during the eight (8) years before the allocation is calculated, the baseline heat input is that one (1) non-zero control period heat input.
- (2) If a unit commenced commercial operation on or after January 1, 2016, and operates each control period during a period of three (3) or more consecutive calendar years, for an allowance allocation under section 3(2) of this rule, the baseline heat input is the average of the three (3) highest, non-zero control period heat input values for the years before the calculation of the allocation, not to exceed

eight (8) control periods.

(b) For purposes of this rule, new units either:

- (1) commenced operation on or after January 1, 2016, and do not have a baseline heat input; or
- (2) did not receive allowances as determined under section 5(c) of this rule, and operated during the control period immediately preceding the year of allocation.

(c) The maximum historic emission cap is the maximum NO_x emissions, in tons, that occurred during any control period of the historic emissions period. The historic emissions period is an eight (8) year history for each unit ending with the most recent year of the eight (8) years used for the determination of the heat input under subsection (a).

(d) A unit's control period heat input and a unit's total tons of NO_x emissions during a control period under this section must be determined in accordance with 40 CFR 75*.

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-4](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-6-5](#) Existing unit allocations and adjustments

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) For each control period in 2021 and thereafter, the department shall allocate to all existing units that have a baseline heat input the total amount of allowances as listed in section 2(c) of this rule in accordance with this section.

(b) The initial allocation for an existing unit is the existing unit budget multiplied by the ratio of the baseline heat input of the unit to the total amount of baseline heat inputs of all CSAPR NO_x ozone season group 2 units, rounded to the nearest whole allowance.

(c) A unit receives no allowances if the unit does not operate during the control period in two (2) consecutive years as follows:

- (1) Allowances must not be allocated to the unit for the control period in the fifth year after the first year of not operating and in each year after the fifth year.
- (2) If the unit resumes operation, the department must allocate allowances to the unit in accordance with the standards for new unit allocations until the unit has a baseline heat input.

(d) The allocation to each unit is the lesser of the following, plus any reapportioned allowances:

- (1) Initial allocation under subsection (b).
- (2) A cap on emissions pursuant to a federally enforceable judicial consent decree.
- (3) Maximum historic emissions, as determined under section 4(c) of this rule.
- (4) No allowances if the unit does not operate as described in subsection (c).

(e) All allowances remaining after the application of subsections (b) and (c) are reapportioned as follows, until the entire existing unit budget is allocated, with each resulting allocation value rounded to the nearest whole allowance:

- (1) Remaining allowances are reapportioned to the remaining units whose initial allocation is not limited by subsection (d)(2) through (d)(4).
- (2) Allocations are apportioned on the same basis as under subsection (b).
- (3) These steps are repeated with each revised allocation distribution until the entire existing unit budget is allocated.

(f) By March 1 of each year existing unit allocations are made under this section, the department shall make the allowance allocations available for public review. The department may adjust each determination if appropriate or necessary to ensure that it is in accordance with this rule.

(Air Pollution Control Division; [326 IAC 24-6-5](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-6-6](#) New unit allocations

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) For each control period in 2021 and thereafter, the department shall allocate to all new units, a total amount of allowances in the new unit set-aside as listed in section 2(b) of this rule.

(b) The department must determine for each new unit an allocation of allowances for the later of the following control periods and for each subsequent control period:

- (1) The control period starting in 2021.
- (2) The first full control period after the unit commences commercial operation.
- (3) For a unit misallocated allowances under 40 CFR 97.811(c)*, as added by 81 FR 74633, the first control period in which the unit operates in Indiana after operating in another jurisdiction and the unit must not already have been allocated one (1) or more allowances.
- (4) For a unit that received no allowances as described in section 5(c) of this rule that resumes operation, the first full control period after the unit resumes operation.

(c) The allocation to each unit for each control period must be an amount equal to the unit's total tons of NO_x emissions during the immediately preceding control period. The department may adjust the allocations as follows:

- (1) If the amount of allowances in the new unit set-aside for a control period is greater than or equal to the sum of the preceding control period emissions, then the department shall allocate the amount equal to the unit's total tons of NO_x emissions during the immediately preceding control period.
- (2) If the amount of allowances in the new unit set-aside for a control period is less than the sum of the preceding control period emissions, then the department shall allocate to each unit an amount equal to the unit's tons of NO_x emissions during the immediately preceding control period for the unit, multiplied by the amount of allowances in the new unit set-aside for the control period, divided by the sum of the preceding control period emissions, rounded to the nearest whole allowance.

(d) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-6](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-6-7](#) Unallocated new unit set-aside allowances

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) Unallocated allowances remaining in the new unit set-aside after completion of the procedures of section 6 of this rule, for a control period, shall be allocated first to new units as follows:

- (1) For each unit that commenced commercial operation during the period starting January 1 of the year before the year of the control period and ending November 30 of the year of the control period, the department shall determine the positive difference, if any, between the unit's emissions during the control period and the amount of allowances awarded for the unit for the control period.
- (2) The department shall determine the sum of the positive differences determined under subdivision

(1) and then proceed as follows:

(A) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is greater than or equal to the sum determined under this subdivision, then the department must allocate the amount of allowances determined for each unit under subdivision (1).

(B) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is less than the sum under this subdivision, then the department must allocate to each unit under the following formula, rounded to the nearest whole allowance:

$$\text{Unit Allowance} = ((E-A) \times \text{RNUSA}) / \text{Sum}$$

Where: Unit allowance is the total allowances allocated to the unit.
E is the unit's emissions during the control period.
A is the amount of allowances awarded for the unit for the control period.
RNUSA is the remaining allowances in the new unit set-aside.
Sum is the total amount of allocations under this subdivision.

(b) After completion of the procedures under subsection (a) for a control period, if any unallocated allowances remain in the new unit set-aside for the control period, the department shall allocate to each existing unit that was allocated allowances under section 5 of this rule, an amount of allowances under the following formula:

$$\text{Unit allowance} = (\text{UA} \times \text{EUA}) / \text{EUB}$$

Where: Unit allowance is the total allowances allocated to the unit.
UA is the total amount of the remaining unallocated allowances in the new unit set-aside.
EUA is the unit's allocation under section 5 of this rule for the control period.
EUB is the existing unit budget, as listed in section 2(c) of this rule, for the control period, rounded to the nearest whole allowance.

(c) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

(Air Pollution Control Division; [326 IAC 24-6-7](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

SECTION 5. [326 IAC 24-7](#) IS ADDED TO READ AS FOLLOWS:

Rule 7. Sulfur Dioxide (SO₂) Group 1 Trading Program

[326 IAC 24-7-1](#) Applicability and incorporation by reference

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to CSAPR SO₂ Group 1 units and CSAPR SO₂ Group 1 sources as specified in 40 CFR 97.604*, as amended by 81 FR 74616, that are located in Indiana.

(b) The definitions in [IC 13-11-2](#), [326 IAC 1](#), and 40 CFR 97.602*, as amended by 81 FR 74615, apply throughout this rule. For purposes of this rule, the definition for a term provided in 40 CFR 97.602 controls in any conflict between [326 IAC 1](#) and 40 CFR 97.602.

(c) The following federal provisions are incorporated by reference:

(1) The CSAPR SO₂ Group 1 Trading Program at:

(A) 40 CFR 97.602* through 40 CFR 97.608*, as amended by 81 FR 74615;

(B) 40 CFR 97.611(c)(1)* through 40 CFR 97.611(c)(4)*, as amended by 81 FR 74616;

(C) 40 CFR 97.611(c)(5)(i)* and 40 CFR 97.611(c)(5)(ii)*, as amended by 81 FR 74616;

- (D) 40 CFR 97.613* through 40 CFR 97.620*, as amended by 81 FR 74617;
 - (E) 40 CFR 97.621(e)* through 40 CFR 97.621(g)*, as amended by 81 FR 74617;
 - (F) 40 CFR 97.621(i)*, as amended by 81 FR 74617;
 - (G) 40 CFR 97.621(k)* and 40 CFR 97.621(l)*, as amended by 81 FR 74617; and
 - (H) 40 CFR 97.622* through 40 CFR 97.635*, as amended by 81 FR 74617.
- (2) The Indiana CSAPR SO₂ group 1 trading budget variability limit at 40 CFR 97.610(b)(2)*, as amended by 81 FR 74616.

(d) The following are substitutions to 40 CFR as incorporated into this rule:

- (1) As it appears in 40 CFR 97.602 and 40 CFR 97.606(c)(2)(iii) substitute the following:
 - (A) Delete "§ 97.610(a)" and insert "40 CFR 97.610(a)(2)(iv)".
 - (B) Delete "§ 97.610(b)" and insert "40 CFR 97.610(b)(2)".
- (2) As it appears in 40 CFR 97.602, delete "§ 97.611 and 97.612" and insert "[326 IAC 24-7-5](#), [326 IAC 24-7-6](#), and [326 IAC 24-7-7](#)".
- (3) As is appears in 40 CFR 97.606(b)(2), delete "§ § 97.611(a)(2) and 97.611(b)" and insert "[326 IAC 24-7-5](#), [326 IAC 24-7-6](#), and [326 IAC 24-7-7](#)".

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-1](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-7-2](#) CSAPR SO₂ group 1 trading budget

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The Indiana CSAPR SO₂ group 1 allowance trading budget, at 40 CFR 97.610(a)(2)(iv)*, as amended by 81 FR 74616, is available for each control period starting in 2021 and thereafter. This does not include any tons in a variability limit.

(b) For each control period in 2021 and thereafter, a new unit set-aside is established for Indiana equal to the allowances at 40 CFR 97.610(a)(2)(v)*, as amended by 81 FR 74616 and any additional allowances at 40 CFR 97.611(c)(5)*, as amended by 81 FR 74616.

(c) The existing unit budget is the difference between the total trading budget at 40 CFR 97.610(a)(2)(iv)*, as amended by 81 FR 74616, and the new unit set-aside at 40 CFR 97.610(a)(2)(v)*, as amended by 81 FR 74616.

*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-2](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-7-3](#) CSAPR SO₂ group 1 allocation timing

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. The department shall allocate CSAPR SO₂ group 1 allowances according to the following schedule:

- (1) By June 1, 2018, the department shall submit to U.S. EPA the existing unit allowance allocations, in accordance with section 5 of this rule, for control periods in 2021 and 2022.
- (2) By June 1, 2019, and June 1 every two (2) years thereafter, the department shall submit to U.S. EPA

the existing unit allowance allocations in accordance with section 5 of this rule, for control periods four (4) and five (5) years after the applicable deadline for submission under this subdivision.

(3) By July 1, 2021, and July 1 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations, in accordance with section 6 of this rule, for the control period in the year of the applicable deadline for submission under this subdivision.

(4) By February 6, 2022, and February 6 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations in accordance with section 7 of this rule, for the control period in the previous year of the applicable deadline for submission under this subdivision.

(Air Pollution Control Division; [326 IAC 24-7-3](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-7-4](#) Baseline heat input and historic emissions

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) For purposes of this rule, an existing unit is any unit with a baseline heat input, in MMBtu. Baseline heat input is determined as follows:

(1) If a unit commenced commercial operation prior to January 1, 2016, then the following applies:

(A) For an allowance allocation for control periods in 2021 and 2022 the baseline heat input is the average of the three (3) highest control period heat inputs in 2008 through 2015.

(B) For an allowance allocation for control periods in 2023 and 2024 and every two (2) control periods thereafter, the baseline heat input is the average of the three (3) highest, non-zero control period heat inputs in the eight (8) years before the allocation is calculated.

(C) If a unit has only two (2) non-zero heat inputs during the eight (8) years before the allocation is calculated, the baseline heat input is the average of those two (2) non-zero control period heat inputs.

(D) If a unit has only one (1) non-zero heat input during the eight (8) years before the allocation is calculated, the baseline heat input is that one (1) non-zero control period heat input.

(2) If a unit commenced commercial operation on or after January 1, 2016, and operates each control period during a period of three (3) or more consecutive calendar years, for an allowance allocation under section 3(2) of this rule, the baseline heat input is the average of the three (3) highest, non-zero control period heat input values for the years before the calculation of the allocation, not to exceed eight (8) control periods.

(b) For purposes of this rule, new units either:

(1) commenced operation on or after January 1, 2016, and do not have a baseline heat input; or

(2) did not receive allowances as determined under section 5(c) of this rule, and operated during the control period immediately preceding the year of allocation.

(c) The maximum historic emission cap is the maximum SO₂ emissions, in tons, that occurred during any control period of the historic emissions period. The historic emissions period is an eight (8) year history for each unit ending with the most recent year of the eight (8) years used for the determination of the heat input under subsection (a).

(d) A unit's control period heat input and a unit's total tons of SO₂ emissions during a control period under this section must be determined in accordance with 40 CFR 75*.

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-4](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-7-5](#) Existing unit allocations and adjustments

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) For each control period in 2021 and thereafter, the department shall allocate to all existing units that have a baseline heat input the total amount of allowances as listed in section 2(c) of this rule in accordance with this section.

(b) The initial allocation for an existing unit is the existing unit budget multiplied by the ratio of the baseline heat input of the unit to the total amount of baseline heat inputs of all CSAPR SO₂ group 1 units, rounded to the nearest whole allowance.

(c) A unit receives no allowances if the unit does not operate during the control period in two (2) consecutive years as follows:

- (1)** Allowances must not be allocated to the unit for the control period in the fifth year after the first year of not operating and in each year after the fifth year.
- (2)** If the unit resumes operation, the department must allocate allowances to the unit in accordance with the standards for new unit allocations until the unit has a baseline heat input.

(d) The allocation to each unit is the lesser of the following, plus any reapportioned allowances:

- (1)** Initial allocation under subsection (b).
- (2)** A cap on emissions pursuant to a federally enforceable judicial consent decree.
- (3)** Maximum historic emissions, as determined under section 4(c) of this rule.
- (4)** No allowances if the unit does not operate as described in subsection (c).

(e) All allowances remaining after the application of subsections (b) and (c) are reapportioned as follows, until the entire existing unit budget is allocated, with each resulting allocation value rounded to the nearest whole allowance:

- (1)** Remaining allowances are reapportioned to the remaining units whose initial allocation is not limited by subsection (d)(2) through (d)(4).
- (2)** Allocations are apportioned on the same basis as under subsection (b).
- (3)** These steps are repeated with each revised allocation distribution until the entire existing unit budget is allocated.

(f) By March 1 of each year existing unit allocations are made under this section, the department shall make the allowance allocations available for public review. The department may adjust each determination if appropriate or necessary to ensure that it is in accordance with this rule.

(Air Pollution Control Division; [326 IAC 24-7-5](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-7-6](#) New unit allocations

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) For each control period in 2021 and thereafter, the department shall allocate to all new units, a total amount of allowances in the new unit set-aside as listed in section 2(b) of this rule.

(b) The department must determine for each new unit an allocation of allowances for the later of the following control periods and for each subsequent control period:

- (1)** The control period starting in 2021.
- (2)** The first full control period after the unit commences commercial operation.
- (3)** For a unit misallocated allowances under 40 CFR 97.611(c)*, as amended by 81 FR 74616, the first control period in which the unit operates in Indiana after operating in another jurisdiction and the unit must not already have been allocated one (1) or more allowances.
- (4)** For a unit that received no allowances as described in section 5(c) of this rule that resumes operation, the first full control period after the unit resumes operation.

(c) The allocation to each unit for each control period must be an amount equal to the unit's total tons of SO₂ emissions during the immediately preceding control period. The department may adjust the allocations as follows:

- (1) If the amount of allowances in the new unit set-aside for a control period is greater than or equal to the sum of the preceding control period emissions, then the department shall allocate the amount equal to the unit's total tons of SO₂ emissions during the immediately preceding control period.
- (2) If the amount of allowances in the new unit set-aside for a control period is less than the sum of the preceding control period emissions, then the department shall allocate to each unit an amount equal to the unit's tons of SO₂ emissions during the immediately preceding control period for the unit, multiplied by the amount of allowances in the new unit set-aside for the control period, divided by the sum of the preceding control period emissions, rounded to the nearest whole allowance.

(d) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-6](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

[326 IAC 24-7-7](#) Unallocated new unit set-aside allowances

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) Unallocated allowances remaining in the new unit set-aside after completion of the procedures of section 6 of this rule, for a control period, shall be allocated first to new units as follows:

- (1) For each unit that commenced commercial operation during the period starting January 1 of the year before the year of the control period and ending November 30 of the year of the control period, the department shall determine the positive difference, if any, between the unit's emissions during the control period and the amount of allowances awarded for the unit for the control period.
- (2) The department shall determine the sum of the positive differences determined under subdivision (1) and then proceed as follows:
 - (A) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is greater than or equal to the sum determined under this subdivision, then the department must allocate the amount of allowances determined for each unit under subdivision (1).
 - (B) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is less than the sum under this subdivision, then the department must allocate to each unit under the following formula, rounded to the nearest whole allowance:

$$\text{Unit Allowance} = ((E-A) \times \text{RNUSA}) / \text{Sum}$$

Where: Unit allowance is the total allowances allocated to the unit.
E is the unit's emissions during the control period.
A is the amount of allowances awarded for the unit for the control period.
RNUSA is the remaining allowances in the new unit set-aside.
Sum is the total amount of allocations under this subdivision.

(b) After completion of the procedures under subsection (a) for a control period, if any unallocated allowances remain in the new unit set-aside for the control period, the department shall allocate to each existing unit that was allocated allowances under section 5 of this rule, an amount of allowances under the following formula:

$$\text{Unit allowance} = (\text{UA} \times \text{EUA}) / \text{EUB}$$

Where: Unit allowance is the total allowances allocated to the unit.
UA is the total amount of the remaining unallocated allowances in the new unit set-aside.
EUA is the unit's allocation under section 5 of this rule for the control period.

EUB is the existing unit budget, as listed in section 2(c) of this rule, for the control period, rounded to the nearest whole allowance.

(c) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

(Air Pollution Control Division; [326 IAC 24-7-7](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

SECTION 6. [326 IAC 26-1-5](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 26-1-5](#) Cross-State Air Pollution Rule (CSAPR) participation by electric generating units

Authority: [IC 4-22-2-21](#); [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 4-22-9-5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 5. Participation by electric generating units in the ~~CAIR cap and trade program~~ shall satisfy **Cross-State Air Pollution Rule (CSAPR) trading programs under [326 IAC 24](#) or 40 CFR 97** satisfies the sulfur dioxide (SO₂) and oxides of nitrogen (NO_x) requirements of this rule.

(Air Pollution Control Division; [326 IAC 26-1-5](#); filed Jan 23, 2008, 1:37 p.m.: [20080220-IR-326060208FRA](#); filed Oct 25, 2017, 1:02 p.m.: [20171122-IR-326160209FRA](#))

SECTION 7. THE FOLLOWING ARE REPEALED: [326 IAC 24-1](#); [326 IAC 24-2](#); [326 IAC 24-3-3](#); [326 IAC 24-3-5](#); [326 IAC 24-3-6](#); [326 IAC 24-3-7](#); [326 IAC 24-3-8](#); [326 IAC 24-3-9](#); [326 IAC 24-3-10](#); [326 IAC 24-3-12](#).

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Documents Incorporated by Reference: Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 81 FR 74504-74650 (October 26, 2016)

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